

4820-02-P

**R.P. 00-20
ADM-9-03:RR:IT:RE
914607 FF**

**DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE**

19 CFR PART 10

(T.D. 00-68)

RIN 1515-AC76

**UNITED STATES-CARIBBEAN BASIN TRADE PARTNERSHIP ACT AND
CARIBBEAN BASIN INITIATIVE**

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim regulations; corrections.

SUMMARY: This document makes corrections to the document published in the **Federal Register** on October 5, 2000, as T.D. 00-68 which set forth interim amendments to the Customs Regulations primarily to implement the trade benefit provisions for Caribbean Basin countries contained in Title II of the Trade and Development Act of 2000, referred to as the United States-Caribbean Basin Trade Partnership Act.

DATES: These corrections are effective October 1, 2000; written comments must be submitted by December 4, 2000, in the manner prescribed in T.D. 00-68.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese, Office of Regulations

and Rulings (202-927-1361).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On October 5, 2000, Customs published in the **Federal Register** (65 FR 59650) T.D. 00-68 to set forth interim amendments to the Customs Regulations primarily to implement the trade benefit provisions for Caribbean Basin countries contained in Title II of the Trade and Development Act of 2000. The trade benefits under Title II, also referred to as the United States-Caribbean Basin Trade Partnership Act (the CBTPA), apply to Caribbean Basin countries designated by the President and involve the entry of specific textile and apparel articles free of duty and free of any quantitative restrictions, limitations, or consultation levels and the extension of NAFTA duty treatment standards to non-textile articles that are excluded from duty-free treatment under the Caribbean Basin Initiative (CBI) program. Those interim regulatory amendments took effect on October 1, 2000, to coincide with the effective date of the relevant statutory provisions.

This document rectifies some omissions and corrects some other errors published in T.D. 00-68. Two errors were in the preamble portion of the document and involved a misplacement of two numbers regarding the estimated information collection burden under the Paperwork Reduction Act. The remaining corrections set forth in this document involve the following aspects of the interim regulations:

1. The amendatory instruction for the authority citation to Part 10 should have stated that the general authority citation “is revised” (rather than “continues”) to read as

follows, because that general authority citation as set forth in T.D. 00-68 includes a change to reflect that General Note 20 of the Harmonized Tariff Schedule of the United States (HTSUS) was redesignated as General Note 22 in the Annex to Presidential Proclamation 7351 of October 2, 2000 (published in the **Federal Register** at 65 FR 59329 on October 4, 2000) which implemented the CBTPA.

2. In the first sentence of § 10.221, the word “Basin” was inadvertently omitted from the title of the CBTPA.

3. The definition of “assembled in one or more CBTPA beneficiary countries” under § 10.222 includes a parenthetical specification of items (that is, thread, decorative embellishments, buttons, zippers, or similar components) that are not considered to be components for purposes of assembly under the text. However, Customs has reconsidered this matter and now believes that inclusion of this parenthetical limiting language, which is not mandated by the statute, was in error because in some contexts it may be inconsistent with applicable judicial precedent as regards what may be considered a component for assembly purposes. Accordingly, this parenthetical reference should be removed from the text of the definition.

4. The definition of “CBTPA beneficiary country” under § 10.222 refers to a beneficiary country designated by the President but does not refer to the additional statutory requirement that the President determine whether a designated beneficiary country has satisfied the requirements of 19 U.S.C. 2703(b)(4)(A)(ii) (the authority for making that determination was delegated to the United States Trade Representative (USTR) in Presidential Proclamation 7351). Since the determination regarding the

requirements of 19 U.S.C. 2703(b)(4)(A)(ii) is a necessary condition of eligibility for the CBTPA trade benefits for each beneficiary country and thus operates as a condition precedent to application of the implementing regulations, the definition must be corrected to reflect this additional statutory requirement.

5. Within § 10.223, paragraph (a)(4) requires some wording changes to conform more closely to the terms of corresponding subheading 9820.11.09 which was added to the HTSUS by the Annex to Presidential Proclamation 7351.

6. Within § 10.223, paragraph (a)(8) requires some wording changes to conform more closely to the terms of corresponding subheading 9820.11.27 which was added to the HTSUS by the Annex to Presidential Proclamation 7351.

7. Within § 10.223, in paragraph (a)(9), the words “or his designee” should be added after “the President” to cover any future delegation of authority by the President in this context.

8. Within § 10.223, the words “in a CBTPA beneficiary country” need to be added after the word “assembled” in paragraph (a)(11) to reflect the wording of corresponding subheading 9820.11.21 which was added to the HTSUS by the Annex to Presidential Proclamation 7351.

9. Within § 10.223, paragraph (a)(12) describes certain knitted or crocheted apparel articles and was included to reflect the terms of subheading 9820.11.18 which was added to the HTSUS by the Annex to Presidential Proclamation 7351. The word “wholly” appears in the regulatory text before the word “assembled” but is not included in the text of the HTSUS subheading. In addition, the regulatory text includes, after the

words “assembled in one or more CBTPA beneficiary countries,” the words “or the United States” which do not appear in the HTSUS subheading text. Accordingly, the words “wholly” and “or the United States” must be removed from the regulatory text to ensure conformity with the HTSUS subheading text.

10. Also with regard to paragraph (a)(12) of § 10.223, appropriate and necessary references to that provision were inadvertently omitted from the following regulatory provisions:

- a. In paragraph (b)(1)(i)(A) of § 10.223, which concerns the special rule for foreign findings and trimmings, the sewing thread exception at the end must include a reference to paragraph (a)(12) in addition to the reference to paragraph (a)(3) because both provisions refer to “thread formed in the United States.”
- b. In paragraph (b)(1)(i)(D) of § 10.223, which concerns the de minimis rule for fibers and yarns not wholly formed in the United States or in one or more CBTPA beneficiary countries, the exception for elastomeric yarns (which must be wholly formed in the United States) must include a reference to paragraph (a)(12) in addition to the reference to paragraphs (a)(1) through (a)(5) because all of those provisions refer to “yarns wholly formed in the United States.”
- c. In paragraph (b)(2) of § 10.223, which concerns the special rule for nylon filament yarn, reference is made to an article otherwise described under “paragraph (a)(1), (a)(2) or (a)(3) of this section,” because those three regulatory provisions correspond to the two statutory provisions (that is, “clause (i) or (ii)” of 19 U.S.C. 2703(b)(2)(A)) referred to in the statutory nylon filament yarn provision (that is, 19 U.S.C.

2703(b)(2)(A)(vii)(IV)). It is noted that the nylon filament yarn rule is also reflected in U.S. Note 3(d) to new Subchapter XX of Chapter 98 of the HTSUS as added by the Annex to Presidential Proclamation 7351. Since that U.S. Note 3(d) also includes a reference to HTSUS subheading 9820.11.18, a reference to paragraph (a)(12) should be added to paragraph (b)(2) of § 10.223.

d. Finally, the second sentence of paragraph (a) of § 10.225, which concerns the filing of claims for preferential treatment, refers to articles described in paragraphs (a)(1) through (a)(11) and thus requires the addition of a reference to paragraph (a)(12) to be complete.

11. In the Textile Certificate of Origin set forth under paragraph (b) of § 10.224, the reference to Caribbean yarn must be removed from block 7 because the statutory and regulatory texts do not mention Caribbean yarn, and the description of preference group D must be corrected to conform more closely to the wording of paragraph (a)(4) of § 10.223 as corrected in this document. The complete Certificate incorporating these corrections is set forth in this document.

12. As in the case of § 10.221 mentioned above, the word “Basin” was inadvertently omitted from the title of the CBTPA in the first sentence of § 10.231.

13. Finally, for the same reasons stated above in the case of § 10.222, the definition of “CBTPA beneficiary country” under § 10.232 must be corrected to reflect the additional statutory requirement under 19 U.S.C. 2703(b)(4)(A)(ii).

CORRECTIONS OF PUBLICATION

Accordingly, the document published in the **Federal Register** as T.D. 00-68 on

October 5, 2000 (65 FR 59650) is corrected as set forth below.

Corrections to the Preamble

1. On page 59657, in the second column, in the second line the number "440" is corrected to read "42" and in the fourth line the number "42" is corrected to read "440".

Corrections to the Interim Regulations

2. On page 59657, in the third column, in the amendatory language in instruction paragraph 1, pertaining to the general authority citation for Part 10, the word "continues" is corrected to read "is revised".

3. On page 59658, in the third column, in § 10.221, the first sentence is corrected by adding the word "Basin" between the words "Caribbean" and "Trade".

4. On page 59658, in the third column, in § 10.222, the definition of "assembled in one or more CBTPA beneficiary countries" is corrected by removing the parenthetical phrase "(other than thread, decorative embellishments, buttons, zippers, or similar components)".

5. On page 59658, in the third column, in § 10.222, the definition of "CBTPA beneficiary country" is corrected to read:

* * * * *

CBTPA beneficiary country. "CBTPA beneficiary country" means a "beneficiary country" as defined in § 10.191(b)(1) for purposes of the CBERA which the President also has designated as a beneficiary country for purposes of preferential treatment of textile and apparel articles under 19 U.S.C. 2703(b)(2) and which has been the subject of a finding by the President or his designee, published in the **Federal Register**, that

the beneficiary country has satisfied the requirements of 19 U.S.C. 2703(b)(4)(A)(ii).

* * * * *

6. On page 59659, in the second column, in § 10.223, paragraph (a)(4) is corrected to read:

* * * * *

(a) * * *

(4) Apparel articles (other than socks provided for in heading 6115 of the HTSUS) knit to shape in a CBTPA beneficiary country from yarns wholly formed in the United States, and knitted or crocheted apparel articles (other than non-underwear t-shirts) cut and wholly assembled in one or more CBTPA beneficiary countries from fabrics formed in one or more CBTPA beneficiary countries or in one or more CBTPA beneficiary countries and the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are formed in one or more CBTPA beneficiary countries);

* * * * *

7. On page 59659, in the third column, in § 10.223, paragraph (a)(8) is corrected to read:

* * * * *

(a) * * *

(8) Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabrics or yarn

that the President or his designee has designated in the **Federal Register** as not available in commercial quantities in the United States;

* * * * *

8. On page 59659, in the third column, in § 10.223, the text of paragraph (a)(9) is corrected by adding the words “or his designee” after the words “the President”;

9. On page 59659, in the third column, in § 10.223, the text of paragraph (a)(11) is corrected by adding the words “in a CBTPA beneficiary country” after the word “assembled”.

10. On page 59660, in the first column, in § 10.223, the text of paragraph (a)(12) is corrected by removing the word “wholly” before the word “assembled” and by removing the words “or the United States” after the word “countries”.

11. On page 59660, in the first column, in § 10.223, the text of paragraph (b)(1)(i)(A) is corrected by adding the reference “or (a)(12)” after the reference “paragraph (a)(3)”.

12. On page 59660, in the second column, in § 10.223, the text of paragraph (b)(1)(i)(D) is corrected by adding the reference “or (a)(12)” after the reference “paragraph (a)(1) through (a)(5)”.

13. On page 59660, in the second column, in § 10.223, the text of paragraph (b)(2) is corrected by removing the reference “paragraph (a)(1), (a)(2) or (a)(3)” and adding, in its place, the reference “paragraph (a)(1), (a)(2), (a)(3) or (a)(12)”.

14. On page 59661, in § 10.224, the Textile Certificate of Origin under paragraph (b) is corrected to read:

* * * * *

(b) * * *

Caribbean Basin Trade Partnership Act Textile Certificate of Origin

1. Exporter Name & Address		2. Producer Name & Address	
3. Importer Name & Address		6.U.S./Caribbean Fabric Producer Name & Address	
4. Description of Article	5. Preference Group	7. U.S. Yarn Producer Name & Address	
		8. U.S. Thread Producer Name & Address	
		9. Name of Handloomed, Handmade, or Folklore Article	
10. Name of Preference Group G Fabric or Yarn:			

Preference Groups:

- A: Apparel assembled from U.S.-formed and cut fabric from U.S. yarn [19 CFR 10.223(a)(1)].
- B: Apparel assembled and further processed from U.S.-formed and cut fabric from U.S. yarn [19 CFR 10.223(a)(2)].
- C: Non-knit apparel cut and assembled from U.S. fabric from U.S. yarn and thread. [19 CFR 10.223(a)(3)].
- D: Apparel knit to shape from U.S. yarn and knitted or crocheted apparel cut and assembled from regional or regional and U.S. fabrics from U.S. yarn [19 CFR 10.223(a)(4)].
- E: Non-underwear t-shirts made of regional fabric from U.S. yarn [19 CFR 10.223(a)(5)].
- F: Brassieres cut and assembled in the United States and/or one or more CBTPA beneficiary countries [19 CFR 10.223(a)(6)].
- G: Apparel cut and assembled in one or more CBTPA beneficiary countries from fabrics or yarn not formed in the United States or one or more CBTPA beneficiary countries (as identified in NAFTA) or designated as not available in commercial quantities in the United States [19 CFR 10.223(a)(7) or (a)(8)].
- H: Handloomed, handmade, or folklore articles [19 CFR 10.223(a)(9)].
- I: Luggage assembled from U.S.-formed and cut fabric from U.S. yarn. [19 CFR 10.223(a)(10)].
- J: Luggage cut and assembled from U.S. fabric from U.S. yarn [19 CFR 10.223(a)(11)].
- K: Knitted or crocheted apparel cut and assembled from U.S. fabric from U.S. yarn and thread. [19 CFR 10.223(a)(12)].

I certify that the information on this document is complete and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document.

I agree to maintain, and present upon request, documentation necessary to support this certificate.

12. Authorized Signature	13. Company
14. Name (Print or Type)	15. Title

16a.Date(DD/MM/YY)	16b.Blanket Period From: To:	17. Telephone Number Facsimile Number
--------------------	---------------------------------	--

15. On page 59662, in the second column, in § 10.225, the second sentence of paragraph (a) is corrected by removing the reference “§ 10.223(a)(2) through (a)(9) and (a)(11)” and adding, in its place, the reference “§ 10.223(a)(2) through (a)(9), (a)(11) or (a)(12)”.

16. On page 59663, in the third column, in § 10.231, the first sentence is corrected by adding the word “Basin” between the words “Caribbean” and “Trade”.

17. On page 59663, in the third column, in § 10.232, the definition of “CBTPA beneficiary country” is corrected to read:

* * * * *

CBTPA beneficiary country. “CBTPA beneficiary country” means a “beneficiary country” as defined in § 10.191(b)(1) for purposes of the CBERA which the President also has designated as a beneficiary country for purposes of preferential duty treatment of articles under 19 U.S.C. 2703(b)(3) and which has been the subject of a finding by the President or his designee, published in the **Federal Register**, that the beneficiary country has satisfied the requirements of 19 U.S.C. 2703(b)(4)(A)(ii).

* * * * *

Dated: November 3, 2000

Deputy Assistant Secretary of the Treasury
John P. Simpson